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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT CALIFORNIA OF SAN FRANCISCO DIVISION**

In re:
PG&E CORPORATION
-and-
PACIFIC GAS AND ELECTRIC
COMPANY,
☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

Case No.: 19-30088 (DM)

Chapter 11
(lead case)
(jointly administered)

**MOTION TO ALLOW/DEEM
TIMELY LATE FILING OF
PROOF OF CLAIM BY JENNIFER
GREMILLION AND KIRA
HUNTER, MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF REGINA
BAGDASARIAN IN SUPPORT**

Date: TBD
Time: TBD
Place: United States Bankruptcy Court
Courtroom 16, 17th Floor
San Francisco, CA 94102

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1 TO THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY COURT
2 JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED
3 PARTIES:

4 Frantz Law Group, APLC represents thousands of victims of the Fires started by PG&E
5 in 2017 (generally referred to as the “North Bay Fires”), 2018 (“Camp Fire”) and 2019
6 (“Kincade Fire”). Frantz Law Group, APLC respectfully files this motion on behalf of Jennifer
7 Gremillion and Kira Hunter (“Movant(s)”) to deem timely late filing of proofs of claims
8 (“Motion”).

9 **I. SUMMARY OF ARGUMENT**

10 A proof of claim may be deemed timely upon a showing of excusable neglect and lack of
11 prejudice. In this case, due to a variety of stressors arising from the Camp Fire, the impact of the
12 Dixie Fire, as well as a misunderstanding as to the legitimacy of his claims, Movant was unable
13 to timely file their proof of claim. Because there is no danger of prejudice to the Debtors as
14 Debtors’ estates are solvent, and all creditors stand to be paid, the Motion should be granted to
15 allow these survivors to have their claim deemed timely. This Court must determine whether to
16 grant the Motion.

17 **II. FACTUAL BACKGROUND**

18 Movants, Jennifer Gremillion and Kira Hunter, are survivors of the 2018 Camp Fire that
19 left numerous individuals without a home, injured, and traumatized. Alongside many others that
20 morning, the Movants evacuated in a long line of cars, stuck in traffic, trying to get out to
21 survive. Unlike some of the other, slightly more fortunate Survivors, the Movants had nowhere
22 to go.

23 The Movants were denied approval to return to the home they were renting, as the
24 landlord chose to not re-rent the room to allow his family members that lost their home due to the
25 fire to reside where Movants once lived. As a result of this denial, Movants were living out of
26 their car from November 2018 until June 2019. Jennifer and her young daughter Kira were
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1 forced to live in a car because they had nowhere to go. Due to Jennifer losing her home and her
2 job because of the fire, the mother-daughter duo did not have many resources.

3 Jennifer sought legal advice from other firms to establish a claim for her against PG&E.
4 Unfortunately, the law firm she attempted to retain did not provide her with accurate information
5 In fact, Movants were advised by that firm that they would not have a valid claim because they
6 were renters. Due to the false legal advice given, the Movants were misinformed about the
7 legitimacy of their claims. As such, Movants did not file a claim because they were told by a law
8 firm that it was not possible to do so.

9 It was not until Movants retained Frantz Law Group that they realized their claims are
10 legitimate. Accordingly, FLG filed a claim on behalf of Movants. A true and correct copy of the
11 Subject Proof of Claim is attached to the Declaration as Exhibit "1."

12 **III. LEGAL ARGUMENT**

13 In Chapter 11 proceedings, bankruptcy courts have broad discretion to accept late filings,
14 including proofs of claim, where tardiness is the consequence of "excusable neglect." Fed. R.
15 Bank. Pro. 9006(b)(1). This standard is "flexible," and permits the Court to allow "late filings
16 caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond
17 the party's control." *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 389
18 (1993). Where the party's delay is caused by overwhelming personal distress, a late filing may
19 be allowed on grounds of excusable neglect. See e.g., *In re Nw. Territorial Mint, LLC*, No. AP
20 16 1217-CMA, 2018 WL 6187762, at *5 (B.A.P. 9th Cir. Nov. 27, 2018) ("Excusable neglect
21 can include sudden death, disability or illness of counsel, a close family member of counsel, or .
22 . . the party."); *In re Schultz*, 254 B.R. 149, 154 (B.A.P. 6th Cir. 2000) (same); *TCI Group Life*
23 *Ins. Plan v. Knoebber*, 244 F.3d 691, 699 (9th Cir. 2001) (excusable neglect where party was
24 experiencing extreme personal difficulties and was "distraught") (overruled on other grounds);
25 *Comm. for Idaho's High Desert, Inc. v. Yost*, 92 F.3d 814, 824 (9th Cir. 1996) (holding that
26 "compelling circumstances" in one's personal life may constitute excusable neglect). Essentially,
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1 Rule 9006(b)(1) allows “late filings caused by inadvertence, mistake, or carelessness, not just
2 those caused by intervening circumstances beyond the party's control.” *Id.*, at 381.

3 The test for excusable neglect is “at bottom an equitable [inquiry].” *Pioneer Inv. Servs.*
4 *Co.*, 507 U.S. at 395. Courts in the Ninth Circuit generally examine four (4) factors in their
5 analysis: (i) the danger of prejudice to the non-movant, (ii) the length of delay and its potential
6 impact on the judicial proceedings, (iii) the reason for the delay, and (iv) whether the movant
7 acted in good faith. See *id.* Each of these four factors weighs heavily in favor of Jennifer
8 Gremillion and Kira Hunter. Accordingly, their late proof of claims should be deemed timely.

9 Here, there will be no prejudice to PG&E by the Movant’s claim since the value of the
10 Movants claims is marginal relative to the Debtors’ estates. The allowance of those claims will
11 not disrupt the reorganization or distribution process. Debtors’ estates are solvent, and all
12 creditors stand to be paid. See, e.g., *In re Best Payphones, Inc.*, 523 B.R. 54, 75-6 (Bankr.
13 S.D.N.Y. 2015) and *In re Sheehan Mem’l Hosp.*, 507 B.R. 802, 803 (Bankr. W.D.N.Y. 2014)
14 (where the chapter 11 estate is solvent, “the proper remedy for a late filing is not the
15 expungement of a claim, but its allowance as a tardily filed claim only.).

16 Second, despite the late filing, the Movants claim will have essentially zero impact on the
17 judicial proceedings and will not change PG&E’s reorganization process. There are tens of
18 thousands of similarly situated claimants as the Movants, whose claims will be placed among
19 them, resulting in no noticeable impact upon the distribution process. See e.g., *In re Dix*, 95 B.R.
20 134, 138 (B.A.P. 9th Cir. 1988) (allowing proof of claim filed two-years late because “there is
21 no indication [of] a negative impact on efficient court administration”); *In re Earth Rock, Inc.*,
22 153 B.R. at 63 (finding excusable neglect where eight-month delay would not impact
23 reorganization proceedings).

24 Third, the factual circumstances in the Movant’s claim warrants excusable neglect. As
25 explained thoroughly above, Movant was consistently told by lawyers at other firms that she had
26 no claim since she was merely a renter and not a homeowner. Because Movant is a layperson and
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1 she was relying on legal advice given by attorneys, she did not file a claim sooner. Because of
2 the Movant's misunderstanding of the law, she was unaware of the claim filing deadline, and did
3 not know there as a deadline until FLG was retained. *See, e.g., ZiLOG, Inc. v. Corning (In re*
4 *ZiLOG, Inc.)*, 450 F.3d 996, 1003-07 (9th Cir. 2006) (applying the *Pioneer* factors).

5 Movants also struggle from post-traumatic stress disorder as a result of the fire. Post-
6 traumatic stress disorder symptoms may start within one month of a traumatic event, but
7 sometimes symptoms may not appear until years after the event.¹ These symptoms cause
8 significant problems in social or work situations and in relationships.² They can also interfere
9 with a person's ability to go about their normal daily tasks.³

11 PTSD symptoms can vary in intensity over time. Someone may have more PTSD
12 symptoms when they are generally stressed, or when they come across reminders of a traumatic
13 event they experienced.⁴ In terms of wildfire victims, many feel stress, anxiety, and panic when
14 they smell even the slightest smoke, because it triggers a traumatic memory of their experience.
15 Some even wake up multiple times at night to make sure there is not a fire nearby.

17 Another common symptom of PTSD is avoiding things that remind someone of the event.
18 ⁵ For wildfire victims, this can include putting off filing a lawsuit to try to move on from the
19 traumatic event. Unfortunately, for these types of wildfire victims, years later, they come to the
20 realization that it is not possible to simply start over after the fire. A lot of wildfire victims have
21 lost their homes, everything they own, their jobs, and their community. With a limited or no
22 income at all, most wildfire victims are unable to rebuild and move on as they were trying to do.

25 ¹ Post-traumatic stress disorder (PTSD) - Symptoms and causes, Mayo Clinic (July 6, 2018),
26 www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967.

27 ² *Ibid.*

28 ³ *Ibid.*

⁴ *Ibid.*

⁵ [About Face booklet \(va.gov\)](http://AboutFacebooklet(va.gov))

1 As a result, due to excusable unawareness, the Movant did not timely file a proof of claim
2 for their 2018 damages until after the bar date. See e.g., *Comm. for Idaho's High Desert, Inc. v.*
3 *Yost*, 92 F.3d 814, 824 (9th Cir. 1996) (“compelling circumstances” in one’s personal life may
4 constitute excusable neglect).

5 Ultimately, the Movant’s claim was made in good faith. Movant was consistently told by
6 lawyers she did not have a claim because she was a renter. Movant was misinformed. Movant,
7 immediately upon realizing she must file a claim retained FLG and provided all necessary
8 information and filed a Subject Proof of Claim. Lastly, any prospect of prejudice beyond
9 solvency is unlikely given (a) all distributions have not yet been made; and (b) the value of
10 Movants’ claims relative to the value of Debtors’ estates is low. *See, e.g., In re Keene Corp.*, 188
11 B.R. 903, 910 (Bankr. S.D.N.Y. 1995)

12 IV. CONCLUSION

13 For the reasons set forth above, Movants respectfully requests that this Court enter an
14 order pursuant to Rule 9006(b)(1) of the Federal Rules of Bankruptcy Procedure as follows:

- 15 1. Granting the Motion;
- 16 2. Finding that Subject Proof of Claim filed by Movants is to be allowed as having been
17 timely filed;
- 18 3. Granting such other or further relief as the Court deems just and proper.

19 Dated: March 15, 2022

20 By: /s/ James P. Frantz
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I, Regina Bagdasarian, declare as follows:

1. I am an individual over 18 years of age and competent to make this Declaration.
2. If called upon to testify, I could and would competently testify as to the facts set forth in this Declaration. The facts set forth below are true based on my personal knowledge or through information obtained my staff.
3. I am an attorney of the law firm Frantz Law Group, APLC and I make this declaration in support of the Motion to Allow/Deem Timely Late Filing of Proof of Claim.
4. Creditors Jennifer Gremillion and Kira Hunter are survivors of the Camp Fire that occurred in 2018.
5. Jennifer Gremillion and Kira Hunter resided at 14462 Essex Ct, Magalia, CA 95954.
6. Jennifer Gremillion and Kira Hunter did not file a claim because of their misunderstanding of the law.
7. Jennifer Gremillion and Kira Hunter filed this claim in good faith.
8. On October 8, 2021, Jennifer Gremillion and Kira Hunter retained FLG.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
March 15, 2022.

/s/ _____

Regina Bagdasarian

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/s/ _____

Regina Bagdasarian